MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2016/2017

ULS2612 –LAW OF SUCCESSION

(All Sections/Groups)

20TH OCTOBER 2016
Reading Time: - 9.00 a.m. – 9.15 a.m.
(15 minutes)
Answering Time: - 9.15 a.m. – 12.15p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE** HOURS in which to answer the questions.

2. This question paper consists of 3 pages, with 4 Questions only.

3. Part A, which consists of **QUESTION 1** is **COMPULSORY.**

4. Part B, Answer any **TWO** questions out of **THREE** questions. **No marks will be given for additional answers.**

5. Students are allowed to bring only the WILLS ACT 1959, PROBATE AND ADMINISTRATION ACT 1959, INHERITENCE (FAMILY PROVISION) ACT 1971 and DISTRIBUTION ACT 1958 into the Examination Hall.

   Students are not allowed to lend or borrow statute(s) during the Examination.

6. Please write your answers in the Answer Booklet provided.

PART A :

QUESTION 1 (COMPULSORY)

Madam Suzie Ng was very ill and admitted to the hospital. One day, she gave a piece of paper of her own handwriting to Cik Siti, the nurse who took care of her. She asked for Cik Siti's favour to prepare a proper will according to what she instructed in the paper.

A week later, Cik Siti prepared the will and showed it to Madam Suzie Ng. At that time Madam Suzie Ng was so weak that she could not even open her eyes. Siti told her that it was the will which she instructed her to do earlier. Without opening her eyes, Madam Suzie Ng nodded her head. Upon seeing Madam Suzie Ng's approval, Siti signed the will on behalf of Madam Suzie Ng in her own name. The witnesses were the patient who stayed beside Madam Suzie Ng's bed together with Cik Siti herself. However, both of them only signed the attestation clause 3 days later not in the presence of each other.

According to the will, Madam Suzie Ng appointed her friend, Johnson to be her executor. She bequeathed her properties to be distributed between her two daughters; Annie and Anna equally. Anna however had converted to Islam recently. Madam Suzie Ng's son; Andy was not named as beneficiary in the will. According to Cik Siti, Madam Suzie Ng told her that her only son died since he was a baby.

Andy who was not happy with the will questioned its validity and contended that he had a copy of Madam Suzie Ng's earlier will. The will was signed five (5) years before Madam Suzie Ng married her second husband, Mr Kwok and named Andy as the sole beneficiary.

Mr Kwok who had a son Max from his former marriage had recently died a few weeks after Madam Suzie Ng. In the circumstances, Max claimed that both wills were invalid and therefore Madam Suzie Ng died intestate. This shall make him a beneficiary through his late father's estate.

Johnson, who was confused of all the sudden issues was reluctant to accept the appointment of the executor and wished to renounce his executorship.

Discuss.

(40 marks)

Continued .....

PART B
QUESTION 2

***"Sa'ad bin Abi Waqqas said; "The Messenger of Allah used to visit me at Mecca in the year of the Farewell Pilgrimage, on account of my illness which had become very severe. So I said: My illness had become very severe and I have much property and there is none to inherit from me but a daughter, shall I then bequeath two thirds of my property to charity? He said: No. I said: Half? He said: No. Then he said: Bequeth one third and one third is too much for if you leave them in want begging from other people."* – (Sunan Abu Dawud, Kitab Al-Wasaya)**

In light of the above, discuss the various ways of disposing an estate under Islamic law of inheritance.

(30 marks)

QUESTION 3

a. The court had granted an order appointing Mooray as the administrator of Tim's estate. Amongst the properties left by the deceased was a 10-acre rubber estate.

Mr Jojo was the supervisor of the rubber estate appointed by the late Tim. After Tim died Mr Jojo continued managing the rubber estate and took care of its account. Mooray had never cared about the rubber estate as he knew that Mr Jojo could do all the task.

Mr Jojo also cut down all the rubber trees in the remaining 5 acres and sold all the logs. He kept the monies for his own.

When this came to Mooray's knowledge, he questioned Mr Jojo on his unauthorized act. Mr Jojo contended that he did all the act for the benefit of the estate as the rubber trees were too old to produce quality latex.

In addition, Mr Jojo also contacted Tim's beneficiaries and told that Mooray had not been performing his duties as administrator diligently. He never care about the estate and did not perform all his other duties accordingly.

One of Tim's beneficiaries sent Mooray a notice enquiring for a proper account of Tim's estate for the last 3 years since he was appointed as the administrator.

Discuss.

(25 marks)

Continued .....

b. Mr Terrance's will did not include his disable son, Darren who suffers from a nerve related syndrome which makes him mentally and physically disabled. Advise whether Darren and/or his guardian is eligible to apply for a court order to include him as beneficiary under his late father's estate.

(5 marks)

(Total: 30 marks)

QUESTION 4

> ***"Whether there was or was not a revocation has to be determined from all circumstances of the case. The general rule that the later provision did not override the former as being irreconcilable with it, or the principle that it denoted a later intention only applies on failure of every attempt to give the whole such a construction as will render every part of the will effective".***
> - Taken from the case of **Fatimah v Logan [1871] 1 Ky 225.**

Based on the above, analyse in detail the different types of revocation of a will.

(30 marks)

(Total: 30 Marks)

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